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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,909	11/21/2001	Doug Hutcheson	01-40243-US-C	.1784

7590 08/24/2005

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EXAMINER
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PEACHES, RANDY

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/989,909	<b>Applicant(s)</b> HUTCHESON ET AL.	
	<b>Examiner</b> Randy Peaches	<b>Art Unit</b> 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/28/2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. ***Claims 1-10, 15-23*** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vange et al. (U.S. Patent Number 6,050,898) in view of Rautila (U.S. Patent Number 6,524,189 B1).

Regarding ***claim 1***, Vange et al discloses a method for providing interactive communications services to multi-players which reads on claimed "plurality of users", using corresponding plurality of game clients (18), which reads on claimed "plurality of

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communications devices", via a telecommunication network that may degrade performance of said communications services, said method comprising:

- requesting state information from each game client (18), which reads on claimed "at least two of said communications devices", of a multi-player game indicative of degradation of said initiated communications services after a predetermined temporal period. See column 7 lines 7-8;
- receiving data indicative of performance information, which reads on claimed "said requested state information", and detecting differences between said each game client (18) using said performance information. See column 7 lines 6-49; and,
- alleviating a perception of said degradation between said received data from game server (200), which reads on claimed "the first communication device ", and the game client, which reads on claimed "said second," of the at least two communication devices by increasing/decreasing the bandwidth based off the said performance information (see column 7 lines 40-49), which reads on claimed "smoothing said communications services", using at least one of said communications devices if differences detected exceed a given threshold. See column 7 lines 45-48. The Examiner would like to further explain where Vange et al. continues to disclose in column 7 lines 63-67 and column 8 lines 1-22, wherein two communicating devices, in this case the two communication devices are the said game clients (18), are optimized based on the latency detected by the said server (200). The Examiner would like to point out that it is his/her

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responsibility to examine the instant application in view of the broadest, most reasonable interpretation of the Applicant's claimed language.

However, Vange et al. fails to expressly disclose whether the telecommunication network is a wireless network.

Rautila teaches in column 3 lines 39-58, of a multi-player game system using mobile telephones via a cellular network, which reads on claimed "wireless network".

Hence, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 2**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 1**, wherein Rautila further teaches in column 4 lines 42-54, comprising logging at least one of said users on to said cellular communications network.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

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Regarding **claim 3**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 2**, wherein Rautila discloses in column 6 lines 5-24 where the additional players are requesting service/participation, which reads on claimed "communication services", with the master player.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 4**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 3**, wherein Rautila discloses in column 6 lines 36-52, where the game master contains the identity of all players participating.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 5**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 4**, wherein Rautila discloses in column 6 lines 25-35, where the said players identify their game state, which reads on claimed "identifying a skill level".

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 6**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 5**, wherein Rautila discloses in column 6 lines 25-35, where the said game states are communicated to the participating users.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

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Regarding **claim 7**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 4**, wherein Rautila discloses in column 6 lines 36-52, where retrieving data associated with said identified at least one other logged on user.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 8**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 4**, wherein Rautila discloses in column 6 lines 36-52, where retrieving data associated with said communications services.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claims 9 and 21**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination



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according to **claim 1**, wherein Vange et al. discloses increasing/decreasing the bandwidth based off the said performance information (see column 7 lines 40-49), which reads on claimed "smoothing said communications services", using at least one of said communications devices if differences detected exceed a given threshold. See column 7 lines 45-48.

Regarding **claims 10 and 15**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 1**, wherein Rautila discloses querying at least one of said players, which reads on claimed "communications device", to determine information store in the said player's device. See column 6 lines 39-51.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 16**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 1**, wherein Rautila discloses wherein said at least one capability comprises a processing capability. See column 6 lines 39-51.

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Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 17**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 15**, wherein Rautila discloses in column 2 lines 60-67, wherein said at least one capability comprises a display capability.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 18**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 15**, wherein Vange et al. further discloses determining at least one capability common, via Relevancy Vector (RV), to said queried said game client (18) and using said common capability for said interactive services. See column 5 lines 56-67 and column 6 lines 1-10.

Regarding **claim 19**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 1**, wherein Vange et al. discloses a method comprising querying said each game client (18) for data indicative of respective signal strengths. See column 7 lines 6-9.

Regarding **claim 20**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 1**, Vange et al. discloses wherein said requesting state information comprises querying said at least two communications devices for data indicative of at least one latency associated with said wireless communications network, respectively.

Regarding **claim 22**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 21**, Vange et al. discloses wherein said adjusting comprises changing the bandwidth to accommodate the latency requirements. See column 7 lines 30-54.

Regarding **claim 23**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination

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according to **claim 1**, wherein Rautila discloses wherein players further comprising initiating said games. See column 6 lines 1-15.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

3. **Claims 11-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) as applied to **claim 1** above, and further in view of Finn (U.S. Patent Application 2002/0052239 A1).

Regarding **claim 11**, as the combination of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) are made, the combination according to **claim 1**, fails to disclose a method determining locations respectively associated with said at least two of said communications devices.

Finn discloses in paragraph [0165], where position signal are transmitted to determine the position of the relative gaming units 920A-D.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the combined teachings of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) to further include

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Finn (U.S. Patent Application 2002/0052239 A1) in order provide a means to determine the location of the related gaming unit within the vicinity of a unit requesting participation.

Regarding **claim 12**, as the combination of Vange et al. (U.S. Patent Number 6,050,898), Rautila (U.S. Patent Number 6,524,189 B1) and Finn (U.S. Patent Application 2002/0052239 A1) are made, the combination according to **claim 11**, Finn discloses wherein said determining locations comprises receiving data indicative of said locations from said at least two said gaming units 920A-D. See paragraph [0165].

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the combined teachings of Vange et al. (U.S. Patent Number 6,050,898) and Rautila (U.S. Patent Number 6,524,189 B1) to further include Finn (U.S. Patent Application 2002/0052239 A1) in order provide a means to determine the location of the related gaming unit within the vicinity of a unit requesting participation.

Regarding **claim 13**, as the combination of Vange et al. (U.S. Patent Number 6,050,898), Rautila (U.S. Patent Number 6,524,189 B1) and Finn (U.S. Patent Application 2002/0052239 A1) are made, the combination according to **claim 12**, Rautila further teaches in column 4 lines 24-31 of a method comprising establishing a peer-to-peer communications session associated with said communications services between said at least two communications devices if, as disclosed by Finn in paragraph

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[0165], the said locations associated with said at least two communications devices are within a given distance, which reads on claimed "threshold".

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player.

Regarding **claim 14**, as the combination of Vange et al. (U.S. Patent Number 6,050,898), Rautila (U.S. Patent Number 6,524,189 B1) and Finn (U.S. Patent Application 2002/0052239 A1) are made, the combination according to **claim 13**, Rautila further teaches in column 4 lines 24-31 of a method comprising terminating said peer-to-peer communications session and uploading data indicative of said interactive communications services via said wireless communications network.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings of Vange et al. (U.S. Patent Number 6,050,898) to include Rautila (U.S. Patent Number 6,524,189 B1) in order to provide a performance regulating system for a multi-player system in a cellular environment to ensure optimal performance distributed to each participating player

### ***Response to Arguments***

Applicant's arguments filed 5/21/2005 have been fully considered but they are not persuasive.

Regarding ***claim 1***, The Applicant asserts that the "equalization" between Vange et al's. game server and the said game clients teach away from the functionality claimed by the Applicant. The Examiner respectfully disagrees. First, the Examiner would like to clarify his interpretation of the claimed "communication device." A communication device is interpreted as any device in a system capable of receiving and transmitting signal. Based on such interpretation the referenced game server (200) passes as a communication device due to its nature in communicating with the said game clients (18).

Secondly, the Applicant discloses that the Examiner's position regarding the increasing/decreasing of the bandwidth of the communicating signal fails to read clearly on the cited claimed language of "smoothing communication services." Examiner would like to respectfully reiterate that smoothing is an equalizing process between two or more entities, i.e. increase or decrease a parameter to achieve an optimal performance. The cited reference, although does not specifically proclaim the word 'smoothing', clearly defines the optimizing procedure the Applicant's claimed invention teaches.

In conclusion, based on these and the information presented in the above Office Action, ***claims 1-23*** stand rejected.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Peaches whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Randy Peaches  
August 17, 2005

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